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UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

IN THE MATTER OF THE
COMPLAINT OF BLUE DOLPHIN
CHARTERS, LTD. AND TERRY
DONNELLY, AS OWNERS OF THE
VESSEL M/V BLUE DOLPHIN,
O/N 1082212, FOR EXONERATION
FROM AND/OR LIMITATION
OF LIABILITY

) No. CV05-00037 HG BMK
) [3 Consolidated Cases]
)
) **DECLARATION OF KRISTEN**
) **CLAYPOOL IN OPPOSITION TO**
) **LIMITATION PLAINTIFFS'**
) **MOTION FOR PARTIAL**
) **SUMMARY JUDGMENT**

)
) Date: December 16, 2005
) Time: 9:00 a.m.
) Courtroom: Aha Nonoi, 4th Floor

)
) The Hon. Helen Gillmor
) Trial date: April 11, 2006
)
)
)
)
)
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)
)

EXHIBIT

18

DENNIS CLAYPOOL, individually) No. CV04 00570 HG- BMK
and as Guardian Ad Litem for)
KRISTEN CLAYPOOL, a minor,)
SHERYL CLAYPOOL, SCOTT)
CLAYPOOL, and KRISTEN)
CLAYPOOL,)
Plaintiffs,)
vs.)
CAPTAIN ANDY'S SAILING, INC.,)
BLUE DOLPHIN CHARTERS, LTD.)
and BLUE DOLPHIN DIVING, INC.,)
Defendants.)
_____)

MATTHEW ISHAM, individually) NO. CV04-00559 HG-BMK
and as Guardian ad Litem for)
HAYDEN ISHAM, a minor,)
ROXANNE BEST ISHAM,)
Plaintiffs,)
vs.)
BLUE DOLPHIN CHARTERS, LTD.)
and BLUE DOLPHIN DIVING,)
LTD., CAPTAIN ANDY'S SAILING,)
INC.,)
Defendants.)
_____)

I, KRISTEN CLAYPOOL, hereby state and affirm that:

1. I am an adult resident of the State of Arizona, the daughter of Dennis and Sheryl Claypool, the sister of Scott Claypool, and one of the Plaintiffs in this matter.

2. When the *Spirit of Kauai* ran into my father, Dennis Claypool, I was in the water at Makol'e snorkeling with my mother near the back or "stern" of the *Blue Dolphin*. I was close enough to the site of the accident to hear my father screaming for help. As soon as I heard his screams, I looked up and saw him and another diver struggling on the surface a short distance away. I am a certified life guard. When I heard my dad screaming, my first impulse was to swim over to help him, but the Captain and crew of the *Blue Dolphin* must have heard the screams too because they immediately ordered all of the snorkelers back on board, including my mother and me. After I got back on board, I saw my father being pulled onto the *Spirit of Kauai*, and could tell that he was bleeding badly and had been seriously injured. I was very worried about my dad, and very scared and anxious about his condition. No one could tell us how he was doing, but my mom and I heard talk over the radio about "severed limbs." This only added to our anxiety.

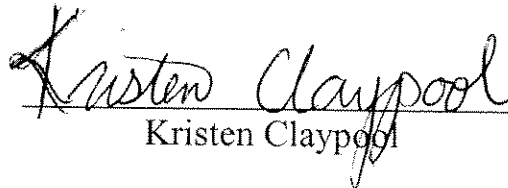
3. Once the *Blue Dolphin* began making preparations to cast off and return to Port Allen in response to the accident, I rounded up my family's belongings and

tried to be strong as I could for my mother, Sheryl Claypool, but I was still very scared inside. The *Blue Dolphin's* life guard and assistant dive instructor, Eric Trout, had paddled over to the *Spirit of Kauai* in his kayak after the accident to help out. When the *Spirit* headed out to sea, Mr. Trout came back on board the *Blue Dolphin* and tried to comfort my mother and me, but it was obvious that he was very worried about both my dad and Matthew Isham.

5. I slept very little that night, and have since suffered from worry, anxiety, loss of sleep, and emotional distress.

I have reviewed the foregoing declaration, and can confirm under penalty of perjury under the laws of the State of Hawaii that the facts and opinions contained therein are true and correct, and personally known to me, and that if I were called as a witness herein, I could competently so testify under oath.

Executed on this 29th day of November, 2005, in the City of Mesa, State of Arizona.


Kristen Claypool